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MONTANA DNRConversation

A Newsletter of the Department of Natural Resources and Conservation • Director Bud Clinch
Fall 2003

COMMERCIAL LEASING - SPECIAL USE PROJECTS — ON SCHOOL TRUST LAND —

Commercial leasing is a relatively recent activity for the Trust Land Management Division (TLMD), when compared to more traditional land uses such as agriculture, grazing, timber, and mineral activities. With the expansion of cities and highways toward several tracts of the school trust lands, the best use of those parcels has changed from agriculture to locations for interchanges, office buildings, and retail shopping centers. Commercial development of trust land in urban areas has the possibility of increasing revenues over a million dollars over the next five years.

Following is a description of several commercial leasing projects that are in process. These projects are developed by the area land offices in conjunction with TLMD's Special Use Management Bureau.

Rendering by SEM Architects, Inc.

Northwestern Land Office

Spring Prairie Center – Kalispell

This property, which has promise for retail, commercial, professional, and residential development, was the focus of an article in the Winter 2002 *DNRConversation* newsletter. Since that time, the parcel has been annexed into the City of Kalispell and zoned with a Planned Unit Development agreement. Infrastructure is now available to begin development of the property, and Home Depot and Target have been developed across the highway.

Converting this land into commercially ready parcels is the culmination of more than five years of planning and public involvement. David Greer, land planner for the Northwestern Land Office, has guided the project from conceptualization to commercialization.

A Request for Proposal (RFP) process was initiated in November 2002 to identify development opportunities for the land adjacent to Highway 93. The department received several responses and is finalizing negotiations on a long-term ground lease with Goldberg Properties, Inc. (GPI) for 60 acres of school trust land. GPI proposed three phases of development, each of which would involve at least one national-name anchor tenant and several smaller commercial shops such as banks, gas stations, and restaurants. National-name tenants represented in GPI centers in other parts of the country include Wal*Mart, Kohl's, Office Max, PetsMart, Costco, and others.

The first phase involves approximately 17.5 acres and includes a 134,550-square-foot Lowe's Home Improvement Center as the anchor tenant. Upon completion of the three phases, annual rental income is

Special Use Projects *continued on page 2*

"To help ensure Montana's land and water resources provide benefits for present and future generations"

Special Use Projects *continued from page 1*

expected to be approximately $400,000 with fixed increases in rent over the base term of the lease.

Whitefish Area Plan – Whitefish

Trust lands within the greater Whitefish area have historically been managed for timber and agricultural uses, while the surrounding community's demographics and economy have significantly changed. The department's goal is to manage trust lands to serve the surrounding community better while increasing revenue to the trust. In association with the City of Whitefish and Flathead County's updating their Growth Policy, the department has developed a neighborhood plan for approximately 13,000 acres within 5 miles of Whitefish. The Whitefish Area Plan will attempt to bring the needs of the trust beneficiaries together with the needs of the surrounding community.

Southern Land Office

Continental Divide – Billings

Photo by TLMD staff

Single- and multi-family residential and commercial uses are intended for this property, which totals more than 300 acres. Phase I, consisting of about 30 acres, has been subdivided into residential lots and sold. A landscape plan has identified a theme for the property, which will incorporate a trail system, a park, and a greenbelt to preserve native trees.

Central Land Office

Hampton Inn – Great Falls

Garry Williams, area manager for the Central Land Office, bid and issued a long-term lease for the development of a Hampton Inn on 3.78 acres across from Marketplace Mall in Great Falls. The property is located on the southeast quadrant of State Route 200 and the new 14th Street Northwest interchange. The four-story Hampton Inn opened in June 2003. The lessees have expressed interest in developing a second Hampton Inn in DNRC's Lewis and Clark Subdivision in Bozeman.

Lewis and Clark Subdivision – Bozeman

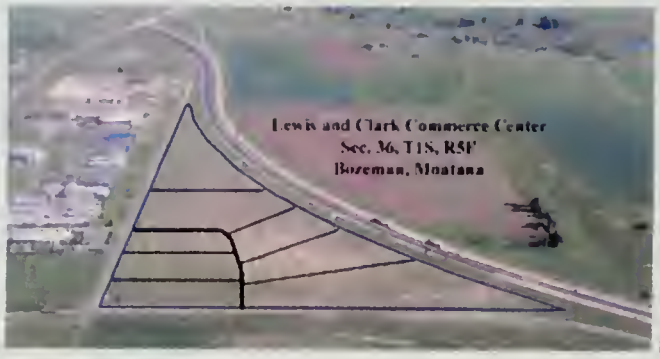


Photo by TLMD staff

The Lewis and Clark Subdivision is a 33-acre, 12-lot subdivision in Bozeman. The property has Interstate 90 frontage between the 7th Street and the 19th Street interchanges. The 19th Street corridor is flourishing with commercial and industrial development. The infrastructure and the development of the first lot, with a state office building, began in April 2003.

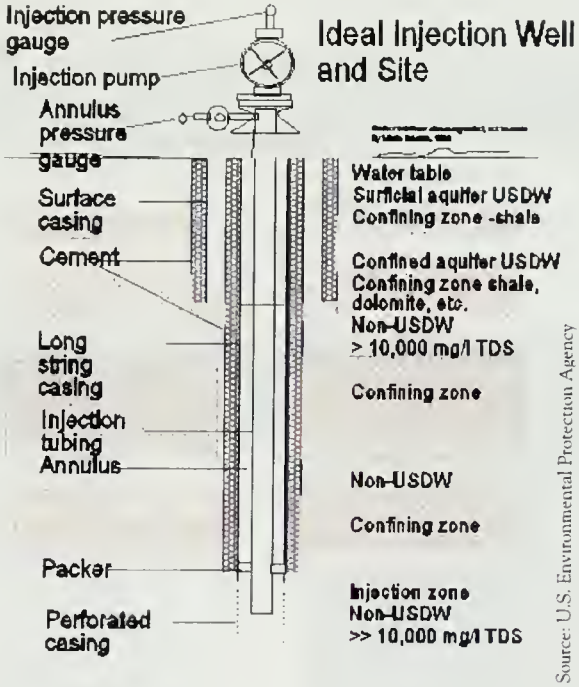
THE UNDERGROUND INJECTION — CONTROL PROGRAM —

A relatively new program in the State of Montana is the Underground Injection Control (UIC) Program. Implemented by the Board of Oil and Gas Conservation, the UIC Program is designed to protect underground sources of drinking water (USDW) from contamination that could result from injection well operations.

Underground injection was regulated in some states beginning as early as 1934, but regulation at the federal level did not come about until 1974, with the passage of the Safe Drinking Water Act. Under this act, the U.S. Environmental Protection Agency (EPA) was charged with promulgating new regulations to control underground injection.

For regulatory purposes, EPA grouped the various types of injection wells into five different classes. Class II injection wells are those used to inject "produced fluids" from oil and gas exploration and production operations. These produced fluids consist mainly of salty groundwater, brought to the surface while an oil well is being pumped, but the term also includes various well-drilling fluids.

EPA also provided for any individual state to regulate underground injection at the state level, if a state could demonstrate that it had regulations in place that were at least as effective as the new federal regulations. Forty states, including Montana, now have primary enforcement authority ("primacy") for Class II injection wells. EPA granted primacy to Montana on November 19, 1996. Montana is responsible for all Class II injection wells in the state, except those within the exterior boundary of an Indian reservation. Those wells are regulated by EPA.



Example of a Class II Well

Class II injection wells are used by the oil industry for two different purposes. (1) A saltwater disposal well (SWD) is used for the disposal of produced fluids. (2) In enhanced oil recovery (EOR) wells, fluids (usually the same fluids that would otherwise need to be disposed of) are injected into a partially depleted oil reservoir to help force oil toward the producing wells and thus increase oil production.

Montana has an inventory of 875 injection wells, 729 of which are EOR, and 146 of which are SWD. Most of these (80 percent) are in two areas: (1) the Cedar Creek Anticline, which runs from Glendive to Baker and on into North Dakota, and (2) in northwestern Montana near Cut Bank. The other injection wells are scattered throughout the rest of central and eastern Montana; there are no injection wells west of the Continental Divide. A total of approximately 110 million barrels of fluid are injected annually.

The purpose of the UIC Program is to ensure that fluids injected into a particular rock formation do not migrate out of that formation into other formations, to the ground surface, or into a USDW. To accomplish this, operators must apply for a UIC permit through the public notice and hearing process by notifying either the Billings or the Helena Oil and Gas Conservation Office. Permitting focuses on three specific areas: (1) injection well siting, (2) well construction, and (3) testing and maintenance.

The most likely pathway for injected fluids to migrate out of the permitted injection zone is via an improperly constructed or improperly plugged well located near the injection well. Injection well permitting utilizes the concept of an "area of review," which is a radius around the injection well, within which there can be no conduit by which injected fluids can migrate out of the injection zone. If such a conduit exists, injection cannot occur unless the injection well operator remediates the situation, usually by re-cementing or plugging a poorly plugged well.

Injection wells are required to be constructed to ensure that the injected fluids go into the injection zone,

Injection *continued on page 4*

Injection . . . continued from page 3

and nowhere else (see accompanying diagram). A typical injection well would have large-diameter surface casing set through the deepest drinking water aquifer, and cemented back to the surface. A string of production casing is then set to the injection zone and cemented back for at least several hundred feet. Then, injection takes place through tubing set on a packer inside the production casing. A packer is a rubber gasket type of device on the bottom of the tubing that isolates the tubing from the rest of the well. Injected fluid that exits the tubing thus has nowhere to go, other than directly into the injection zone.

To ensure that wells are properly operating, the operator is required to perform routine tests for mechanical integrity. To perform the test, pressure is applied with a pump to the annular space between the tubing, packer, and casing. The well must be able to hold this pressure for at least 15 minutes. In addition, Oil and Gas Conservation Division field inspectors routinely inspect injection wells. The inspectors' duties are split between oil and gas wells, and injection wells, and they perform about 550 injection well inspections per year.

One aspect of an injection well inspection is the measurement of the pressure on this same annulus. Abnormalities in this pressure measurement will alert the inspector to a possible problem with the well. In those cases, UIC Program Director George Hudak will require some action on the part of the well operator to demonstrate that the well remains in sound mechanical condition.

The amount of pressure that the injection well operator can apply while injecting is also limited to ensure that the receiving rock formation is not fractured during injection operations.

In 2002, there were 57 injection well violations in Montana, 52 of which were failure to maintain mechanical integrity. This number of violations is lower than the 68 violations in 2001, and it represents a continuation of the downward trend in violations that began in 1999.

The Montana UIC Program is funded through an annual operating fee of $200 per injection well, paid for by the injection well operators, along with a grant of approximately $105,000 per year from EPA. EPA, through its Denver office, provides regular oversight of the Montana UIC Program. In addition, in August of 2003, the UIC Program volunteered to be audited by the Groundwater Protection Council, a nationwide group of federal and state groundwater and UIC regulators.

For additional information, contact George Hudak at 406 656-0040.

FLATHEAD BASIN COMMISSION

The newest member of the statewide DNRC family is the Flathead Basin Commission (FBC).

FBC is a Kalispell-based watershed organization created by the Montana Legislature in 1983 to monitor and protect water quality in the Flathead River drainage. FBC had been administratively attached to the Office of the Governor since its inception. In 2003, the legislature transferred FBC to DNRC's Water Resources Division (WRD).

The organization functions much like a traditional watershed group, with a broad mix of more than 20 agency and citizen members who meet regularly to design and coordinate ongoing monitoring and watershed restoration projects. By statute, FBC is required to meet only twice a year, but it has traditionally met every other month, rotating meetings among the primary communities in Lake and Flathead Counties to provide better opportunities for public involvement.

Because of the size of the Flathead Basin and its environmental and economic importance, agency members include the superintendent of Glacier National Park; the supervisor of the Flathead National Forest; a councilperson of the Confederated Salish and Kootenai Tribes; other representatives of federal, state, and local land-managing and regulatory agencies; and a representative of the premier of British Columbia. Members include two DNRC employees: Jon Dahlberg, area manager of the Northwestern Land Office, and Rich Moy, chief of WRD's Water Management Bureau. The current chair is Lake County Representative Dave DeGrandpre of Charlo, who is also head of the Lake County Planning Department.

Flathead continued on page 5

Flathead *continued from page 4*

Six citizen members, appointed by the governor, serve three-year terms. Flathead residents Art Vail, Marilyn Wood, Gary Wicks, Paul Smiley, Everit Sliter, and Bruce Tutvedt are the current FBC citizen members. Wicks is a former DNRC director.

The commission aggressively seeks funding opportunities and depends upon the receipt of grant funds to carry out its projects, which are designed to improve water quality in Flathead Lake and other water bodies in the drainage. Funding sources have included the 319, Renewable Resource, 104(b)(3), and (U.S. Environmental Protection Agency's) Watershed Initiative Programs. FBC has also received money from nongovernmental sources such as the Bonneville Environmental Foundation. In recent years, FBC has received over $1 million in grants for watershed restoration, education, monitoring, and other activities.

For instance, FBC's Volunteer Monitoring Program, which has been in existence for 12 years, involves over 50 local citizens who collect water quality information on lakes and streams. The Voluntary Nutrient Reduction Strategy, another FBC program showing a great deal of promise, uses landowner education and low cost, on-the-ground projects to reduce nonpoint source pollution and improve water quality.

FBC's sole staff member is Mark Holston, who has been the public information officer for FBC since 1990. With a background in journalism, he's also a contributing editor to a number of national and international publications. "Being part of the DNRC family is great," said Mark. "People are going out of their way to assist FBC, and I feel very positive about the long-term benefits of the association."

For more information on FBC, visit www.digisys.net/fbc or call 406 752-0081.

— FELLOWSHIP AWARDED —

Bill Miller, DNRC training and career development specialist, was recently awarded the George M. Mickelson Memorial Fellowship by the Western Governors' Association (WGA) Foundation. He shares the fellowship with Fred Naeher, training manager with the Montana Division of Disaster and Emergency Services. The two received the $15,000 award to continue their work in preparing training and educational products for emergency preparedness. Governor Judy Martz, current WGA chair, announced the award at the association's annual meeting.

The award honors the late Gov. Mickelson of Wyoming, former chair of WGA, who died in 1993 in a plane crash. Each year the current WGA chair may select an employee for the Mickelson award, which typically funds an innovative demonstration or training program that can be used in other WGA states.

Miller and Naeher submitted a joint application, based on their three-year collaboration to develop and promote a four-hour training and education program titled "Handling Threats." The multimedia program is used to educate trainers in state agencies for homeland security concerns and for unexpected, disruptive events, including earthquakes and natural disasters. Miller and Naeher plan to use the award to make this program available to more trainers throughout Montana and the West.

Miller is a Centralized Services Division (CSD) employee stationed in Helena. His work in developing classroom and computer-based training was recognized last summer by both CSD and the Trust Land Management Division.

Bill Miller receives award from Governor Judy Martz

A FAREWELL MESSAGE

From Don MacIntyre

Thank you for the opportunity to serve the citizens of Montana over the past 30 years. It has been my great honor to serve five governors (Tom Judge, Ted Schwinden, Stan Stephens, Marc Racicot, and Judy Martz) and to work alongside eight directors (Gary Wicks, John Orth, Ted Doney, Leo Barry, Larry Fasbender, Karen Barclay-Fagg, Mark Simonich, and Bud Clinch).

It also has been my privilege to work with some truly outstanding public employees too numerous to name. I would be remiss if I did not say that the vast majority of employees with whom I have worked over my 30 years of employment with the Department of Natural Resources and Conservation have been the most professional and dedicated persons in state government. I have remained amazed throughout the years at the high quality of employees this agency has continually been able to attract and retain, given the pay and benefits available to public employees. Certainly the quality of life in Montana and the satisfaction of working with a natural resource management agency in this great state are two major influences on the quality of employees that have graced the halls of the Department of Natural Resources and Conservation.

Photo by Dennis Zimmerman

Don MacIntyre (left) and family

I have served but one agency – the Department of Natural Resources and Conservation – since I first began the practice of law on June 18, 1973. I have had the opportunity to be its Chief Legal Counsel for over a quarter of a century. I have witnessed the birth of the agency with the passage and initial implementation of the Montana Water Use Act and the Montana Major Facility Siting Act. I have seen the abandonment and the return of Forestry Division to the agency. I have observed the adolescent growth of a youthful and sometimes rebellious agency through its marriage with the management offspring of the Department of State Lands. I have been an eyewitness to often wild and exuberant Christmas parties and the social bomb-threat gatherings at the Red Meadow of the mid-1970s to the more sedate social gatherings of 2003. But most importantly, I have worked with the pioneers and the best of the best in the natural resource area in Montana. I am thankful that I have played a role, albeit a minor one, in the development of Montana's system of natural resource and conservation laws and programs.

In my tenure I have been a part of the largest law firm in Montana – the state agency attorneys. These public sector attorneys gave me the opportunity and pleasure to serve as the first public sector attorney President of the State Bar of Montana.

I owe my greatest gratitude to the cadre of lawyers and legal administrative support personnel who were the core of the agency legal unit over these many years. It is to these men and women that I owe the most for what I am as a lawyer and what I may become as I move on in my career.

It is the people of Montana that I chose to serve over the last three decades through the turn of the century. It is the employees of the Department of Natural Resources and Con- servation with whom I chose to work in serving Montana. It was a former employee of the department whom I married and with whom I raised three wonderful children. The employees have given me more day in and day out than I ever gave them in return. It is a difficult decision to move on to other endeavors. It is difficult in large part because of the personal attachments that I have with many of those with whom I have worked, especially those within the legal staff, CARDD, CSD, and WRD, where I spent most of my professional life.

I give my heartfelt thanks to the employees who have touched my life over the past 30 years and wish God's blessing upon them all.

By copy of this memorandum to Bud Clinch and Ann Bauchman, I give formal notice that I will end my employment with the Montana Department of Natural Resources and Conservation on November 14, 2003.

2003 GOVERNOR'S EXCELLENCE AWARD

Garry Williams (center), flanked by Lt. Governor Karl Ohs and Governor Judy Martz

In September, employees from Montana state government agencies received the prestigious Governor's Award for Excellence in Performance, both as individuals and as team members. The DNRC employee honored in 2003 was Garry Williams, area manager for the Central Land Office (CLO).

Garry was nominated for the award because of his dedication to DNRC and the forestry/trust land programs, and specifically for his efforts in the Special Use Management Program of trust lands. For example, Garry brought to fruition the leasing of the Hampton Inn on state trust land in Great Falls. The Hampton Inn will bring an annual rental of $26,000 per year from 3.78 acres of state land, which is quadruple the amount of revenue that tract has been generating over the past 20 years.

Garry has led the division in commercial development on state lands with the success in Great Falls and the pending ground breaking of the Lewis and Clark Subdivision in Bozeman (see article entitled "Commercial Leasing"). His insight, sound judgment, and professionalism have enabled him to develop trust land for commercial use successfully and in an exemplary manner. Garry's emphasis on building relationships has laid the foundation for future projects within the Central Land Office, as well.

Garry also participated in the Forest Management and Special Uses Advisory Committees, providing critical input into the development of the forest management rules, the Habitat Conservation Plan, and the Special Uses Programmatic Plan.

Garry has a BS in forestry from the University of Montana and more than 25 years with DNRC. He began his state career as a forest technician at the Central Land Office and then moved to the Northeastern Land Office at Lewistown as a forester. Garry eventually returned to CLO as the area silviculturist and was promoted to forest and lands manager in 1995. In May of 2002, he became the area manager of CLO, which includes unit offices at Helena, Bozeman, Conrad, and Dillon. In one brief year as area manager, Garry has brought renewed energy, productivity, and vision to CLO.

MONTANA DNRConversation

DNRConversation is an employee newsletter published quarterly by the Montana Department of Natural Resources and Conservation. Please send news articles or ideas for articles to your division liaison or to any member of the Editorial Board.

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WATERSHED SYMPOSIUM — IN DECEMBER

The second Montana Watershed Coordination Council Symposium will be held December 8-9 in Great Falls at the Holiday Inn. This symposium focuses on "Opportunities for Communities and Landscapes." All stakeholders in the watershed community, from ranchers to resource professionals, can use this occasion as an opportunity to take stock of how the watershed approach has worked and how it can be used in the future to meet local community and resource challenges. Between 200 and 300 are expected to attend.

The watershed symposium is a way to meet with folks from across the state, see the latest approaches and methods used by resource professionals across the West, and hear how changes on the horizon could impact the way in which all stakeholders, including DNRC, conduct business. Even when water is not the primary focus of specific DNRC work, every project resides within a watershed. Therefore, decisions about forestry, mining, or grazing practices, for instance, do impact water resources, and local citizens and other stakeholders increasingly want to integrate those upland decisions into their stewardship of landscapes and water resources.

DNRC has been instrumental in planning the event. Dave Martin, from our Conservation and Resource Development Division, and Mike McLane, Paul Azevedo, and Rich Moy, all from our Water Resources Division (WRD), have been heavily involved in the planning process over the last year. WRD employee Karen Filipovich, program manager of the Montana Watercourse in Bozeman, has been designated as coordinator of the event. All see this symposium as a benefit to local efforts. As Moy said, "This symposium is very timely. It should help new and older watershed groups find out how better to achieve their goals and solve problems. They can learn from each other's mistakes and successes."

To learn more about the symposium or to register, visit the web site at http://water.montana.edu/resources/events/details.asp?ID=781. The agenda and registration form appear at that site, or you can contact the Montana Watercourse at mtwatercourse@montana.edu, phone 406 994-6671. Registrations are due November 25. Up to that date, the cost is $75, which includes four meals. For those registering after that date, the cost will be $125.